

**Minutes
City Council/Redevelopment Agency
City of Huntington Beach**

Monday, July 15, 2002
5:00 P.M. - Room B-8
7:00 P.M. - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

An audiotape of the 5:00 p.m. portion of this meeting
and a videotape of the 7:00 p.m. portion of this meeting
are on file in the Office of the City Clerk.

Call to Order

Mayor Cook called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 7:00 p.m. in Room B8.

City Council/Redevelopment Agency Meeting Roll Call

Present: Green, Dettloff, Boardman, Cook, Winchell, Bauer (Houchen arrived at 5:05 p.m)
Absent: None

(City Council) Study Session Held – Presentation Made by the Director of Administrative Services and Conrad Business Solutions Re: - Overview of Cost Allocation/Fee Recovery Study – to Return to Council at August 2002 Budget Workshops (600.10)

Administrative Services Director Clay Martin informed Council of the purpose of the Cost Allocation/Fee Recovery Study and stated that the project leads on staff are Director of Finance Dan Villella and Principal Accountant Robert Sedlak.

Administrative Services Director Martin introduced Carol Jacobs, Financial Director of the consulting firm, Conrad Business Solutions, who presented a slide show. This slide show was submitted as a Late Communication from the Administrative Services Department on July 15, 2002 titled *Cost Allocation Plan and User Fee Study*.

Ms. Jacobs pointed out that the city overhead rate is 19.89%, which she stated is appropriate for a city the size of Huntington Beach. Ms. Jacobs explained the objectives and scope of the study and methodology. She stated that based on the study results she formed various recommended options (Slide No. 29). Director Martin stated these options were developed for Council's consideration at the time the budget is presented to Council in August.

Director Martin indicated time line expectations, stating that these are preliminary results and a more detailed report will be submitted to Council and staff by the end of the week for review and refinement.

Council received clarification on various issues from Ms. Jacobs and Administrative Services Director Martin relative to the potential for full cost recovery in conjunction with the methodology used by Conrad Business Solutions to ensure an understanding of the company's methods.

Motion to Recess to Closed Session – Approved

A motion was made by Boardman, second Green to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer

NOES: None

ABSENT: None

(City Council) Closed Session – Pursuant to Government Code Section 54957.6 to meet with its designated representatives, Agency Negotiators: William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; and Ron Hagan, Director of Community Services; regarding **labor relations matters – meet and confer** with the following employee organization: **SCLEA** (Surf City Lifeguard Employees' Association). Subject: **Labor Relations – Meet & Confer**. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the agency is a party. The title of the litigation is **City of Huntington Beach v. State Board of Control of the California Public Employees' Retirement System [PERS]**; Court of Appeals Case No. G028210 consolidated with G026268 and G025673; Orange County Superior Court Case No. 816394. Subject: **City of Huntington Beach v. PERS**. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the agency is a party. The title of the litigation is **Scottsdale Insurance Co. v. City of Huntington Beach**, Orange County Superior Court Case No. 761735. Subject: **Scottsdale Insurance Co. v. City of Huntington Beach**. (120.80)

(City Council) Closed Session – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the agency is a party. The title of the litigation is **Brynn Keaty v. City of Huntington Beach, et al.**; U.S. District Court Case Nos. CV 01-5762 RMT (Mcx) and SA 01-1213 AHS. Subject: **Keaty v. City of Huntington Beach, et al.** (120.80)

Reconvened City Council/Redevelopment Agency Meeting – 7:00 P.M. – Council Chambers.**City Council- Redevelopment Agency Roll Call**

Present: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer

Absent: None

(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on July 15, 2002 (Pursuant to Government Code §54957.1(a) (2) Re: Scottsdale Insurance Co. v. City of Huntington Beach, OCSCC Case No. 761735 (120.80)

City Attorney Gail Hutton reported that on Monday, July 15, 2002 the City Council convened in Closed Session to discuss the matter of Scottsdale Insurance Co. v. City of Huntington Beach, Orange County Superior Court Case No. 761735 and voted to appeal.

Subsequent to the meeting, the City Attorney's Office submitted a communication which sets forth the Report of Action in its entirety as follows:

On Monday, July 15, 2002, the City Council convened in closed session to discuss whether or not to defend, or seek or refrain from seeking appellate review of relief, or to enter as an *amicus curiae* in any form of litigation as the result of a consultation under Section 54956.9 in the matter of ***Scottsdale Insurance Co. v. City of Huntington Beach***; Orange County Superior Court Case No. 761735.

This case is an inverse condemnation action involving flooding of an apartment complex in Huntington Beach. The City Council voted to authorize the City Attorney to file an appeal in this case. The Council voted as follows: 7 Ayes; 0 Noes; 0 Abstentions.

(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on July 15, 2002 (Pursuant to Government Code §54957.1(a) (2) Re: City of Huntington Beach v. State Board of Control of the California Public Employees' Retirement System et al. [PERS]; OCSC Case Nos. 779958, 794230, 816394, and Appeal Nos. G026268, G025673; and G028210 (120.80)

City Attorney Gail Hutton reported that on Monday, July 15, 2002 the City Council convened in Closed Session to discuss the matter of City of Huntington Beach v. State Board of Control of the California Public Employees' Retirement System et al. [PERS], not to seek Superior Court review.

Subsequent to the meeting, the City Attorney's Office submitted a communication which sets forth the Report of Action in its entirety as follows:

On Monday, July 15, 2002, the City Council convened in closed session to discuss whether or not to defend, or seek or refrain from seeking appellate review of relief, or to enter as an *amicus curiae* in any form of litigation as the result of a consultation under Section 54956.9 in the matter of *City of Huntington Beach v. State Board of Control; Board of Administration of the Public Employees' Retirement System, et al.*, Orange County Superior Court Case Nos. 779958, 794230, 816394, and the Appeal Nos. G026268, G025673 and G028210.

The City Council voted not to seek Supreme Court review of the decision in this case. The Council voted as follows: 7 Ayes; 1 No; 0 Abstentions.

In this case, the City challenged the legality of the California Public Employees' Retirement System 1992 "Short-Term Policy" which allowed City employees in 1994 to convert or "roll over" certain employee benefits to final compensation for the purpose of obtaining higher retirement benefits. Although the City lost on this point, it won in a related case limiting the rollover only to those employees who exercised it in 1994.

Flag Ceremony and Pledge of Allegiance – Troop 1932 Junior Girl Scouts from Huntington Beach Smith and Seaciff Elementary Schools. Troop Leader Karen Wichner.

The City Clerk Announced Late Communications

Pursuant to the Brown (Open Meetings) Act, the City Clerk announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Slide show presentation submitted by the Administrative Services Department to the City Clerk's Office on July 15, 2002 titled *Cost Allocation Plan and User Fee Study*.

Slide show presentation dated July 15, 2002 from Shari Freidenrich, City Treasurer, titled *May Treasurer's Report*.

Replacement Page No. C-3.3 of staff report from City Treasurer titled *City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for May 2002*.

Communication dated July 15, 2002 from the City Attorney's Office transmitting an amendment to Resolution No. 2002-68. Communication titled *Late Communication – Item D-1.6*.

PowerPoint presentation from staff dated July 15, 2002 titled *Agenda Item D-1 Administrative Public Hearing*.

Communication dated July 15, 2002 from the City Attorney's Office transmitting revised Page No. 1 to each of the Tow Operator Agreements. Communication titled *Late Communication – Item E-8*.

Slide show presentation dated July 15, 2002 from the Public Works Department titled *Option Agreement to Purchase Site No. 2 from AES – 4.5 Acre Parcel for 10 MG Reservoir and Booster Pumping Station*.

Slide show presentation dated July 15, 2002 from the Economic Development Department titled *Huntington Beach Hotel/Motel Business Improvement District*.

Communication dated July 13, 2002 from Gino J. Bruno opposing the proposed agreement. Communication titled *Gail Hutton*.

Slide show presentation dated July 15, 2002 from the Economic Development Department titled *Ordinance Eliminating Time Limit for Debt*.

The Following Additional Late Communication Was Submitted during the Meeting:

The City Administrator distributed a communication from Director of Public Works, Robert F. Beardsley dated July 9, 2002 from the California Regional Water Quality Control Board titled *Rescission of Cleanup and Abatement Order No. 00-86*.

Presentation by Mayor Debbie Cook, Fire Chief Michael Dolder, and Sparky the HB Fire Dog, to Hugo Ruthling, who dialed 911 on May 27, 2002, when his mother Gabby Ruthling, had an asthma attack, and began having trouble breathing. Her breathing became labored and she called to Hugo to call for help, just before passing out. Four year old Hugo dialed 911 and told the dispatcher his Mom was sick and could not breathe. He was able to give enough information to send out a paramedic unit. Throughout the ordeal he kept his composure and delivered accurate information. Had he not done this, his mother could have died. Also in attendance, Captain Mark Daggett, Engineer Chico Sanchez, Firefighter Paramedic Brandon Olson, and Firefighter Paramedic Neal McEvers. (160.40)

Presentation by Mayor Debbie Cook, Mayor Pro Tem Boardman, and Council Member Dettloff to the Huntington Beach Sister City Association Board Members, in recognition and commendation for all their hard work in arranging, coordinating and entertaining the Sister City Visitors from Anjo, Japan. Board Members are: Carmen Erber, Margaret Nerio, Valerie Messina, Sue Melia, Bob Dettloff, Doug Erber, Allison Goldenberg, Bob Rank, Betty Ching, and Keith Bohr. (160.40)

Presentation by Orange County Transportation Authority (OCTA) Director and County Supervisor Jim Silva, to Mayor Debbie Cook and Ron Hagan, Community Services Director, two shuttles and a ceremonial check in the amount of \$138,145 to aid the city in providing transit services to senior residents. The vehicles are provided at no cost to the city and will be replaced every three years through OCTA's Senior Mobility Program. (160.40)

Presentation to Mayor Debbie Cook, Police Chief Ron Lowenberg, and Police Sergeant Gary Meza from Sharon Wie and Interval House Representatives, a check in the amount of \$12,200, which is part of a grant from the Office of Criminal Justice. The Huntington Beach Police Department and Interval House have had a long standing working relationship and this money will go towards working for Domestic Crime Victims. (160.40)

Sharon Wie thanked Chief Lowenberg and the Police Department for their continued support and involvement with the Interval House.

Presentation by Mayor Debbie Cook and Ron Hagan, Community Services Director, Betsy Crimi, Human Services Supervisor and Dick White, President, Huntington Beach Council on Aging to Betsy Fisher, Manager, Norm's Restaurant of Huntington Beach, a commendation for the holiday meals that Norm's prepares for Thanksgiving, Christmas, Valentine's, Easter and 4th of July, at their cost only. Norm's Restaurant has been preparing these meals for five years. (160.40)

Presentation by Mayor Debbie Cook to Ron Hagan, Director, Community Services Department and Dottie Hughes, Senior Recreation Leader, City Gym & Pool, Community Services Department, a Proclamation proclaiming July 14, 2002 through July 20, 2002 as National Aquatic Week. (160.40)

Mayor's Award by Mayor Debbie Cook and Ross Cranmer, Director Building and Safety, to Chad Frisby, Building Inspector III, Building and Safety Department. (160.40)

Public Comments

Joey Racano announced his candidacy for City Council for the November 5, 2002 General Election. Mr. Racano spoke in opposition to Federal Section 301-H waiver. He stated he will be attending the Orange County Sanitation District meeting and is hopeful that the District will vote to follow the Federal Clean Water Act.

Dean Albright stated that although he is in favor of City Attorney Gail Hutton's request for early retirement effective September 30, 2002, he opposed her request to be an independent contractor in the capacity of special legal advisor during the transitional period commencing October 1, 2002 through December 2, 2002.

Debbie Borden spoke in opposition to the absence of the Invocation from the Council meetings and offered a prayer.

Tim Geddes spoke in opposition to the proposed Charter Amendment, which would establish Council Districts and decrease Council from seven to five members. Mr. Geddes stated his expectation that the Council candidates will express their opinion on this issue; that it is "bad government."

Jill Hardy commended the 4th of July Board for ensuring an enjoyable parade. Ms. Hardy announced her candidacy for City Council and spoke in opposition to the proposed Charter Amendment establishing Council Districts. She stated that the proposed reduction of Council members from seven to five would result in a decrease in the number of volunteers who serve on the city's various Boards and Commissions, as these members are appointed on a one-Council member, one-volunteer member basis.

Don McGee thanked the Council Members for the remarkable jobs they are doing. Mr. McGee spoke in favor of Mayor Pro Tem Boardman's Council item relative to banner towing aircraft.

(City Administrator's Report) – Department Highlights on (1) Commendations to the 4th of July Committee and Departments and (2) Rescission of Cleanup and Abatement Order No. 00-86 - Letter from the Executive Officer of the California Regional Water Quality Control Board Informing that the City is in Compliance (600.10)

City Administrator Ray Silver commended the 4th of July Board and all of the City staff, Department of Public Works, Fire Department, and Public Information Office, for their work on the parade.

City Administrator Ray Silver reported on a Late Communication, which he distributed to Council at the meeting and was submitted by Director of Public Works Robert F. Beardsley. The Communication from the California Regional Water Quality Control Board titled *Rescission of Cleanup and Abatement Order No. 00-86*, which sets forth that the City of Huntington Beach has fully complied with the requirements, and the Cleanup and Abatement Order No. 00-86 is hereby rescinded and the District Attorney's Office has been notified of the City's full compliance.

(City Council) Reviewed and Accepted as Amended by a Late Communication, Shari Freidenrich, City Treasurer's May 2002 Report Titled City of Huntington Beach Summary of City Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity (310.20)

The City Council considered a communication from City Treasurer Shari Freidenrich transmitting the Monthly Investment Report for May 2002.

City Treasurer Freidenrich presented the PowerPoint slide show titled *May Treasurer's Report*, which was announced earlier as a Late Communication by the City Clerk.

A motion was made by Boardman, second Dettloff to review and accept **as amended** the monthly report with replacement Page No. C-3.3. Following review of the report, by motion of Council, accept the Monthly Investment Report *Summary of Investment Portfolio, Bond Proceeds, and Deferred Compensation Activity for May 2002*, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Administrative Public Hearing – Adopted Resolution No. 2002-68 as Amended - Approved Certification of Special Assessment for Recovery of Costs for Abatement of Nuisance (Spano Property) 16911 Bolsa Chica Street (570.60)

Mayor Cook announced that this was the time scheduled for an administrative public hearing to consider the adoption of Resolution No. 2002-68 entitled “*A Resolution of the City Council of the City of Huntington Beach Certifying Special Assessments for Recovery of Costs of Abatement of Nuisance at 16911 Bolsa Chica Street (Spano Property).*”

The City Council considered a communication from William Workman, Assistant City Administrator, and Howard Zelefsky, Director of Planning.

A copy of the proposed Resolution is on file in the City Clerk’s Office, 2000 Main Street, Huntington Beach 92648, for inspection by the public.

An administrative hearing is required by the Huntington Beach Municipal Code Section 17.08.010 adopting Uniform Housing Code Section 1602. Only property owners are entitled to speak at an administrative hearing. All other interested parties may speak at regular public comments at beginning of the meeting. Written communications to the City Council may also be mailed to the City Clerk.

Legal notice as provided to the City Clerk’s Office by staff had been mailed, published and posted.

Howard Zelefsky, Director of Planning, introduced William Zylla, Preservation Program Manager, who gave a PowerPoint presentation from a Late Communication announced earlier by the City Clerk dated July 15, 2002 titled *Agenda Item D-1 Administrative Public Hearing*.

Mayor Cook declared the administrative public hearing open.

As there were no persons present to speak on the matter and there were no protests filed, either written or oral, Mayor Cook declared the public hearing closed.

The City Clerk restated for the record of this hearing, the above mentioned PowerPoint presentation and the Late Communication from the City Attorney’s Office.

Council Members received confirmation from staff that the escrow will not close until the lien is satisfied.

A motion was made by Green, second Houchen to adopt **as amended** (by the Late Communication from the City Attorney’s Office dated July 15, 2002 to delete the incorrect address in the resolution and insert the correct address), **Resolution No. 2002-68** entitled “*A Resolution of the City Council of the City of Huntington Beach Certifying Special Assessments for Recovery of Costs of Abatement of Nuisance at 16911 Bolsa Chica Street (Spano Property).*” The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

Consent Calendar – Items Removed for Separate Discussion

The following items were removed from the Consent Calendar for separate discussion:

(City Council) Resolution No. 2002-67 Approving the Submittal of Four Projects to the Orange County Transportation Authority for Funding Under the Arterial Highway Rehabilitation Program (AHRP) (800.40)

(City Council) Construction Contract for the Urban Runoff Diversion, CC-1181 to SRD Engineering, Inc. – For Five Storm Drain Pump Stations (600.10)

(City Council) Resolution No. 2002-70 for Capital Improvement Programs for Compliance with Measure M Requirements – Fiscal Years 2002/2003 through 2008-2009 (320.40)

Consent Calendar – Items Approved

On motion by Dettloff, second Green Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
 NOES: None
 ABSENT: None

(City Council/Redevelopment Agency) Minutes Approved and Adopted as Amended - Approved and adopted the minutes **as amended** (Mayor Pro Tem Boardman seconded the motion made by Green to adopt of Escort Ordinance No. 3565) of the July 1, 2002 regular meetings of the City Council/Redevelopment Agency as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

(City Council) Approved City Council Position on Legislation Pending Before the State Legislature, and/or Congress as Recommended by the City Council Intergovernmental Relations Committee (640.90) – The City Council Intergovernmental Relations Committee has reviewed the legislation, propositions, and ruling below and has recommended that the City Council take a position on the following items, and authorized the Mayor to send letters to the legislators reflecting the following approved positions: **Oppose – HR 3673 (Saxton)** - Revised Standards for Marine Sanitation Devices; **Support AB 2943 (Wiggins)** - Seawall Permits – Amends Coastal Commission Authority; **Support AB 2308 (Chavez)** – Resource Code – Solid Waste – Corrects Administrative Problem; and **Authorize sending a letter in support of the Coastkeeper’s request for funding to do water quality monitoring; and Authorize sending a letter in support of Orange County’s request for funding under Proposition Nos. 12, 13, and 40.** Submitted by Councilmember Shirley Dettloff, Chairperson, Intergovernmental Relations Committee on behalf of Mayor Debbie Cook and Council Member Ralph Bauer. Funding Source: Not Applicable.

(City Council) Approved Two Reappointments of Diana Casey and Eveline Eng to the Allied Arts Board (110.20) – Approved reappointments of **Diana Casey** and **Eveline Eng** to the member-at-large openings on the Allied Arts Board for a second four-year term – June 1, 2002 – May 31, 2006 as recommended by City Council liaisons, Council Members Pam Houchen and Shirley Dettloff. Submitted by the Community Services Department. Funding Source: Not Applicable.

(City Council) Received and Filed the Mobile Home Advisory Board Annual Summary Reports for the Years 2000 and 2001 (430.80) Received and Filed the Huntington Beach Mobile Home Advisory Board Annual Summary Reports for the years 2000 and 2001 submitted to Council pursuant to S.4 of the Bylaws of the Board. Submitted by the Economic Development Director. Funding Source: Not Applicable.

(City Council) Approved 2001-2002 Annual Report – Huntington Beach Auto Dealer Business Improvement District (BID) and Adopted Resolution of Intention No. 2002-66 to Levy an Annual Assessment for Fiscal Year 2002-2003 – Scheduled Public Hearing for Monday, August 5, 2002 (460.30) – **1.** Approved the Huntington Beach Auto Dealers Business Improvement District Annual Report for FY 2001/2002; and **2.** Adopted City Council **Resolution No. 2002-66** – *“A Resolution of the City Council of the City of Huntington Beach Declaring its Intention to Levy an Annual Assessment for Fiscal Year 2002-03 to Fund Improvements within the Huntington Beach Auto Dealers Business Improvement District;”* and **3.** Directed the City Clerk to **schedule a public hearing to be held on August 5, 2002**, and send copies of the Resolution, BID Boundary Map, and assessment formula to each business to be assessed. Submitted by the Economic Development Director. Funding Source: Not Applicable.

(City Council) Authorized Additional Expenditure for Professional Plan Review Services – Department of Building and Safety – To Continue Professional Services Contract Between City and CSG Consultants Inc. (600.10) - Authorized additional expenditure of \$30,000 for professional plan review services in the Department of Building & Safety. Submitted by the Director of Building & Safety. Funding Source: Building & Safety Department Contract Services Account - \$30,000.

(City Council) Approved Amendment of City Budget to Increase City Attorney’s Legal Services Account for Outside Legal Services Account (320.45) – Approved and authorized the Administrative Services Director to appropriate \$275,000 from the General Fund Balance to the City Attorney’s Legal Services Account No. 10015301.69375 to fund the remainder of anticipated costs for outside legal counsel for Fiscal Year 2001-2002. Submitted by the City Attorney. Funding Source: General Fund, Unreserved/ Undesignated - \$275,000.

(City Council) Awarded Three Contracts for Police Directed Towing and Storage Services (Mandic Motors, Inc.) – (Metro Pro Road Service) - (Best Towing Service) - Refer to Page No. 10 of these minutes after the Avery & Associates Item for Amended Motion. (600.10) Approved the following three agreements for Police Directed Towing and Storage Services and authorized the Mayor and for City Clerk to execute the agreements: **1. Agreement Between the City of Huntington Beach and Mandic Motors for Police Directed Towing and Storage Services.** **2. Agreement Between the City of Huntington Beach and Metro Pro Road Services, Inc. for Police Directed Towing and Storage Services.** **3. Agreement Between the City of Huntington Beach and John C. Vaughan dba Best Towing Service for Police Directed Towing and Storage Services.** Submitted by the City Attorney and the Chief of Police. Funding Source: None.

(City Council) Approved 2002/03 Proposed Budget – West Orange County Water Board (320.80) – Approved the 2002/03 West Orange County Water Board Budget in the amount of \$224,800. Submitted by the Director of Public Works. (Pursuant to Joint Powers Agreement between cities of Huntington Beach, Garden Grove, Westminster, and Seal Beach. Funding Source: Fiscal Year 2002-03 Water Fund Budget Account. The total proposed budget for the WOCWB is \$224,800. Huntington Beach’s share for the Fiscal Year 2002-03 for the City of Huntington Beach will be \$83,297.

(City Council) Approved Four Reappointments of Pauline Chavez-Bent, William Daze, Jr., Henry Goldman, and Karl Wiebe to the Historic Resources Board (110.20) – Reappointed **Pauline Chavez-Bent, William Daze, Jr., Henry Goldman, and Karl Wiebe** as members-at-large on the Historic Resources Board for a second four-year term to expire June 30, 2006 as recommended by Council Liaisons Mayor Debbie Cook and Council Member Peter Green. Submitted by the Community Services Director. Funding Source: Not Applicable.

(City Council) Approved Professional Services Contract with Avery & Associates for Executive Recruitment Services for Information Systems Director (600.10) Authorized the Director of Administrative Services to enter into a professional services contract with Avery & Associates for executive recruitment services for the position of Director of Information Systems. Submitted by the Administrative Services Director. Funding Source: Fiscal Year 2001/2002 – Non-Departmental, Recruitment Professional Services – \$22,000.

(City Council) Awarded as Amended Per City Attorney's Late Communication Three Contracts for Police Directed Towing and Storage Services – (Mandic Motors, Inc.) – (Metro Pro Road Service) - (Best Towing Service) (600.10)

City Clerk Connie Brockway requested a motion and a second to approve the three above-captioned agreements **as amended** by the City Attorney's Late Communication.

A motion was made by Boardman, second Green to approve **as amended** (by a Late Communication from the City Attorney's Office dated July 15, 2002 transmitting revised Page No. 1 to each of the Tow Operator Agreements) the following three agreements for Police Directed Towing and Storage Services and authorized the Mayor and for City Clerk to execute the agreements: 1. Agreement Between the City of Huntington Beach and **Mandic Motors** for Police Directed Towing and Storage Services. 2. Agreement Between the City of Huntington Beach and **Metro Pro Road Services, Inc.** for Police Directed Towing and Storage Services. 3. Agreement Between the City of Huntington Beach and **John C. Vaughan dba Best Towing Service** for Police Directed Towing and Storage Services. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
 NOES: None
 ABSENT: None

(City Council) Adopted Resolution No. 2002-67 Approving the Submittal of Four Projects to the Orange County Transportation Authority for Funding Under the Arterial Highway Rehabilitation Program (AHRP) (800.40)

The City Council considered a communication from the Director of Public Works to adopt Resolution No. 2002-67 approving the submittal of four projects to the Orange County Transportation Authority for funding under the Arterial Highway Rehabilitation Program (AHRP).

Council Member Bauer requested that this agenda item be removed from the Consent Calendar to state how the poor conditions of the streets, which he named from the list on the agenda: **1.** Warner Avenue (Graham to Springdale); **2.** Warner Avenue (Bolsa Chica to Graham); **3.** Brookhurst Street (Indianapolis to Meredith); and **4.** Warner Avenue (Algonquin to Sims), will be improved by the AHRP grant funds.

A motion was made by Bauer, second Winchell to Adopt **Resolution No. 2002-61** – “A Resolution of the City Council of the City of Huntington Beach Approving the Submittal of Four Improvement Project(s) to the Orange County Transportation Authority for Funding Under the Arterial Highway Rehabilitation Program.” The motion carried by the following roll call vote:

AYES: Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None (Green out of room)

(City Council) Awarded Bid and Approved Construction Contract for the Urban Runoff Diversion, CC-1181 to SRD Engineering, Inc. – For Five Storm Drain Pump Stations (600.10)

Council Member Bauer requested that this agenda item be removed from the Consent Calendar to call attention that the City of Huntington Beach is continuing to focus on urban runoff diversion improvements to reduce the amount of debris and other pollutants that would otherwise reach the ocean and coastal waters. He commended the Public Works Department for the success of the projects.

A motion was made by Bauer, second Winchell to **1.** Accept the lowest responsive and responsible bid submitted by SRD Engineering, Inc. in the amount of \$73,800 for Urban Runoff Diversion, CC-1181; and **2.** Authorize the Mayor and City Clerk to execute a construction contract in substantially the same form as the attached sample contract. The motion carried by the following roll call vote:

AYES: Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: Green out of room

(City Council) Adopted Resolution No. 2002-70 for Capital Improvement Programs for Compliance with Measure M Requirements – Fiscal Years 2002/2003 through 2008-2009 (320.40)

Council Member Bauer requested that this agenda item be removed from the Consent Calendar to inform voters that Measure M funding is an important source of revenue for street improvements and public works projects.

A motion was made by Bauer, second Winchell to Adopt **Resolution 2002-70** – “A Resolution of the City Council of the City of Huntington Beach Adopting Capital Improvement Programs for the Years 23002/2003 Through 2008/2009 for Compliance with Measure M Requirements”. The motion carried by the following roll call vote:

AYES: Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: Green out of room

(City Council) Approved to Exercise the Option Agreement to Purchase Site No. 2 from AES Huntington Beach Development, Inc. – Reservoir Booster Pump Station (600.10)

The City Council considered a communication from the Director of Public Works and the Director of Administrative Services regarding the City's Option Agreement to purchase one of two 4.5-acre parcels owned by AES Huntington Beach Development, Inc. (AES) for the purpose of constructing a 10 million gallon reservoir and booster pumping station. The Option Agreement expressly states that the property to be purchased will be in an "AS IS" condition.

Director of Public Works Robert F. Beardsley introduced Tom Rulla, Principal Civil Engineer, who gave a PowerPoint presentation from a Late Communication dated July 15, 2002 titled *Option Agreement to Purchase Site No. 2 from AES – 4.5 Acre Parcel for 10 MG Reservoir and Booster Pumping Station*. Director Beardsley referred Council to the wall diagram showing the location of Site No. 2.

Mayor Pro Tem Boardman expressed concerns regarding the nonexclusive easement on the property and the mechanics lien. Amy Bodek, Real Estate Manager, responded that AES and the Southern California Edison Company, are required to remove the easement and the City would not close escrow until the mechanics lien is removed.

Council Member Bauer inquired regarding acquisition and demolition costs. Council Member Bauer was informed by Mr. Rulla as to the potential cost to the City to restore the site and Poseidon's role in the matter.

City Administrator Silver informed Council that this is the last reservoir in the City's master plan and it is needed for the water supply in the South East area, such as in the event of a drought.

A motion was made by Dettloff, second Green to:

1. Authorize the Mayor and City Clerk to exercise the Option Agreement with AES Huntington Beach Development, Inc. for the purchase of Site No. 2.

and

2. Authorize and direct the Manager of Real Estate Services to incorporate appropriate instruments to prepare, file and record all necessary documents, obtain title insurance and perform all other requirements necessary to record with the County the conveyance of said property to the City to complete the purchase as previously authorized by City Council action on August 13, 2001; and protect the City against all mechanics liens and SCE operation easement against said property.

The motion carried by the following roll call vote:

AYES:	Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES:	None
ABSENT:	None

(City Council) Adopted Resolution No. 2002-69 To Establish a Huntington Beach Hotel/Motel Business Improvement District - Scheduled Public Hearing for August 5, 2002 (350.30)

The City Council considered a communication from the Economic Development Director regarding the initiation of the process to form a Business Improvement District for all hotels and motels in Huntington Beach to achieve the goal of promoting the City as an overnight destination without increasing the City's annual contract amount with the Conference & Visitors Bureau. The establishment of a Business Improvement District requires approval by the City Council as set forth by state law.

David Biggs, Economic Development Director presented a PowerPoint slide show dated July 15, 2002 and titled *Huntington Beach Hotel/Motel Business Improvement District*, which had been announced earlier by the City Clerk as a Late Communication.

A motion was made by Bauer, second Green to Adopt **Resolution No. 2002-69** – *“A Resolution of the City Council of the City of Huntington Beach Indicating the City's Intention to Create and Establish a Business Improvement District (“Bid”), Called the “Huntington Beach Hotel/Motel Business Improvement District,” Concerning All of the Hotels and Motels Located Within the City, and Setting a Public Hearing Date of August 5, 2002, to Formally Establish Said Business Improvement District and to Levy Assessments.”*

The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Approved Agreement Between City and Gail C. Hutton, an Individual, for Early Retirement and Provision of Transitional Consultant Legal Services – Council Member Bauer to Submit Council Memo at the August 5, 2002 Meeting Re: City Attorney Appointment From October 1, 2002 to December 1, 2002 (600.10)

The City Council considered a communication from City Attorney Gail C. Hutton transmitting for Council approval an agreement between the City of Huntington Beach and Gail C. Hutton, an Individual, for early retirement and provision of transitional consultant legal services. City Attorney Gail C. Hutton's term of office expires December 2, 2002. Proposed early retirement date is September 30, 2002.

Council questioned what options the City has when the office becomes vacant on September 30, 2002.

Assistant City Attorney Paul D'Alessandro responded by reporting on the charter provisions when a vacancy occurs in an elective city office.

Considerable discussion held regarding aspects of the matter.

Council Member Bauer expressed his intent to submit a Council Memo at the August 5, 2002 meeting relative to the matter of recruiting for appointment to the anticipated vacancy in the elective office of the City Attorney.

Discussion followed as to the feasibility of conducting City Council interviews for the appointment of the City Attorney.

City Administrator Silver stated his need to have one individual only in the City Attorney's Office he can access for recommendations. He presented his three recommended alternatives.

City Clerk, Connie Brockway, brought Council's attention to the fact that the City Charter does not provide for an acting City Attorney, nor "acting" in any elective city office; that such elective office can remain vacant for no longer than 60 days at which expiration of time an election must be called immediately, or a Council appointment to the elective office is made--not an acting appointment. Also in the interim, the City Attorney's salary can be paid to the City employee's classification which is currently designated to assume the work in the absence of the elective department head.

Mayor Cook cautioned that discussion should proceed to an agenda item as Council may be in violation of the Brown Act.

A motion was made by Bauer, second Green to approve *Agreement Between the City of Huntington Beach and Gail C. Hutton for Early Retirement and Provision of Transitional Consultant Legal Services* and authorize the Mayor to execute and the City Clerk to attest to the agreement. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Approved Introduction of Ordinance No. 3566 to Eliminate the Time Limit on the Establishment of Loans, Advances and Indebtedness for the Huntington Beach Redevelopment Project (410.05)

After the City Clerk read by title, a motion was made by Green, second Dettloff to approve introduction of **Ordinance No. 3566** – "*An Ordinance of the City of Huntington Beach Eliminating the Time Limit on the Establishment of Loans, Advances and Indebtedness for the Huntington Beach Redevelopment Project.*" The motion carried by the following roll call vote:

AYES: Green, Dettloff, Houchen, Winchell, Bauer
NOES: Boardman, Cook
ABSENT: None

(City Council) Approved Introduction of Ordinance No. 3567 Amending Chapter 1.16 of the Municipal Code Relating to Penalty Enforcement (640.10)

After the City Clerk reads by title, a motion was made by Green, second Dettloff to approve introduction of **Ordinance No. 3567** "*An Ordinance of the City of Huntington Beach Amending Chapter 1.16 of the Huntington Beach Municipal Code Relating to Penalty Enforcement.*" The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell, Bauer
NOES: None
ABSENT: None

(City Council) Approved Legal Review of Draft Ordinance Regarding Banner Towing Aircraft (640.10)

Communication from Mayor Pro Tem Connie Boardman transmitting the following **Statement of Issue**: I have received numerous complaints from residents in the coastal areas of our city as well as from the area around Golden West College about the noise caused by the planes towing advertising banners. Until recently, it was believed that there was little the city could do to control these aircraft over our city. However, earlier this year the United States 9th Circuit Court of Appeal ruled that cities may regulate aerial advertising.

The City Attorney's Office has prepared a draft ordinance based on the Honolulu, Hawaii ordinance, which was upheld by the 9th Circuit Court. If the City Council is interested in considering such an ordinance, the draft ordinance needs final legal review by the City Attorney's office and approval by the City Council.

Discussion was held regarding the potential cost of code enforcement, the impact on neighboring cities, and the method of citation.

Police Chief Ronald Lowenberg stated that additional research needs to be done to evaluate the impact of such an ordinance.

Council Member Bauer stated cost reasons for his opposition to the proposal and the lack of urgency to act on the matter.

A motion was made by Boardman, second Green to forward the attached draft ordinance for final legal review and subsequent request for action by the City Council. The motion carried by the following roll call vote:

AYES: Green, Dettloff, Boardman, Cook, Houchen, Winchell
NOES: Bauer
ABSENT: None

Adjournment – City Council/Redevelopment Agency

Mayor Cook adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, August 5, 2002, at 5:00 p.m., in Room B-8 Civic Center, 2000 Main Street, Huntington Beach, California.

City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:

City Clerk-Clerk

Mayor-Chairman